

STATE OF TENNESSEE
OFFICE OF THE
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Opinion No. 00-080

Authority of Domestic Violence State Coordinating Council

QUESTION

Under the current provisions of Tenn. Code Ann. §§ 38-12-101, *et seq.*, is it permissible for the Domestic Violence State Coordinating Council to assess fees to offenders who are ordered by the courts to attend the batterers' intervention programs?

OPINION

No, the current statutes do not give the Domestic Violence State Coordinating Council authority to assess fees to offenders who are ordered by the courts to attend the batterers' intervention programs.

ANALYSIS

The Domestic Violence State Coordinating Council (hereinafter "Council") was created by the legislature in 1995 for the purpose of increasing the awareness and understanding of domestic and family violence and its consequences and to reduce the incidence of domestic and family violence within the state. Tenn. Code Ann. § 38-12-102. In 1998, the legislature granted the Council authority to promulgate regulations for batterers' intervention programs for perpetrators of domestic abuse. Tenn. Code Ann. § 38-12-110. Under the provisions of Tenn. Code Ann. § 36-3-606(a)(8), the courts may order perpetrators to attend such counseling programs. The regulations promulgated by the Council provide minimum standards for batterers' intervention programs and establish criteria for monitoring and certification of such programs. Tennessee Administrative Rules, Domestic Violence State Coordinating Council, Chapter 0490-1.

It is well settled that any action of an administrative agency must be grounded in an express statutory grant of authority or must arise by necessary implication from an express statutory grant of authority. *Sanifill of Tennessee, Inc. v. Tennessee Solid Waste Disposal Control Board*, 907 S.W.2d 807 (Tenn. 1995). The current statutes regarding the Council do not expressly provide the Council with authority to assess fees for expenses arising from the monitoring and certification of

batterers' intervention programs. Moreover, the authority to assess fees does not arise by necessary implication from the statutory authority of the Council to promulgate regulations regarding the minimum standards for batterers' intervention programs and criteria for monitoring and certifying such programs. Therefore, it is our opinion that, under the current statutes, the Council does not have authority to assess fees to offenders who are ordered by the courts to attend the batterers' intervention programs.¹

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¹Your opinion request references Senate Bill 3134. Under this proposed bill, the Council would be given statutory authority to assess fees to offenders to fund certification and monitoring of batterers' intervention programs.